



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 3, 2005

The Honorable Jimmy B. Galindo  
Reeves County  
100 East 4<sup>th</sup> Street  
Pecos, Texas 79772

OR2005-03816

Dear Judge Galindo:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 223204.

Reeves County (the "county") received a request for information relating to all lawsuits or settlement agreements to which the county or the county sheriff has been a party or signatory for the years 1992 through 2005. You ask whether the requested information would be excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments.

You also ask whether the county "may . . . require that the requestor be more specific in his request." You assert that compliance with this request would require a search of "voluminous files." We note that any administrative inconvenience that may be involved in responding to a request for information under the Act is not a ground for refusing to comply with a request. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976); Open Records Decision No. 663 at 4 (1999). However, if what information is requested is unclear to a governmental body, or if a large amount of information has been requested, a governmental body may ask the requestor to clarify the request or discuss with the requestor how the scope of the request might be narrowed. *See Gov't Code* § 552.222(b); Open Records Decision No. 663 at 2-5 (addressing circumstances under which governmental body's communications with requestor to clarify or narrow request for information toll its ten-business-day deadline to request decision under *Gov't Code* § 552.301(b)). You do not inform us that the county has asked the requestor to clarify or narrow the scope of his request. Therefore, you must release the requested information unless it has been demonstrated to come within an exception to public disclosure. *See Gov't Code* §§ 552.006, .221, .301, .302; Open Records Decision No. 664 (2000).

Section 552.301 of the Government Code prescribes procedures that must be followed in asking this office to decide whether requested information is excepted from disclosure. Section 552.301(b) requires the governmental body to ask for the attorney general's decision and state the exceptions to disclosure that it claims not later than the tenth business day after the date of its receipt of the written request for information. *See* Gov't Code § 552.301(b). Section 552.301(e) requires the governmental body to submit to this office, not later than the fifteenth business day after the date of its receipt of the request, (1) written comments stating why the governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the request for information; (3) a signed statement of the date on which the governmental body received the request, or evidence sufficient to establish that date; and (4) the specific information that the governmental body seeks to withhold or representative samples of the information if it is voluminous. *See id.* § 552.301(e)(1)(A)-(D). Section 552.302 provides that if a governmental body does not request an attorney general decision as prescribed by section 552.301, then the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ).

As of the date of this decision, this office has not received any of the information, or a representative sample of any information, that the county seeks to withhold. Thus, the county has not complied with section 552.301 in requesting this decision. Therefore, the requested information is presumed to be public and must be released under section 552.302, unless there is a compelling reason to withhold any of the information. The presumption that information is public under section 552.302 can generally be overcome when the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Section 552.103 of the Government Code, which you raise, is a discretionary exception to disclosure that the county may waive. *See* Gov't Code § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); Open Records Decision Nos. 665 at 2 n.5 (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to Gov't Code § 552.103 subject to waiver). In failing to comply with section 552.301, the county has waived section 552.103. *See* Open Records Decision No. 663 at 5 (1999) (failure to comply with Gov't Code § 552.301 in requesting decision resulted in waiver of discretionary exceptions). Thus, the county may not withhold any of the requested information under the exception it claims. As you assert no other basis to withhold any of the information at issue, the requested information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

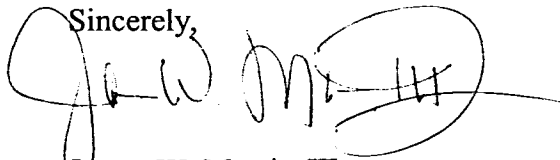
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J W Morris III', with a large, stylized flourish extending from the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 223204

c: Mr. Mario A. Gonzalez  
303 Texas Avenue, Suite 800  
El Paso, Texas 79901